

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT (CORRECTED)
LB423

Hearing Date: Tuesday February 12, 2013
Committee On: Agriculture
Introducer: Agriculture
One Liner: Change seizure provisions of the Livestock Animal Welfare Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Chambers, Hansen, Johnson, Schilz, Wallman
Nay:		
Absent:	1	Senator Harr
Present Not Voting:	2	Senators Bloomfield, Lathrop

Proponents:	Representing:
Rick Leonard	Introducer- Research Analyst Ag Committee
Larry Sitzman	Nebraska Pork Producers
Bob Hallstrom	Nebraska Bankers Association
Amy Prenda	Nebraska Sheriff's Association
Jessica Kolterman	Nebraska Farm Bureau
Kristen Hasebrook	Nebraska Cattlemen
Katie Zulkoski	Nebraska Veterinary Medical Association

Opponents:	Representing:
Vern Jantzen	Nebraska Farmers Union

Neutral:	Representing:
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Summary of purpose and/or changes:

LB 423 amends the Livestock Animal Welfare Act (Act) by establishing procedural protocols for determining judicial determination of the disposition of livestock animals seized in cruelty/neglect instances that are the counterpart to those found in section 29-818 for disposition of pets and equines. The bill inserts express authorities of law enforcement intervening in instances of livestock abuse and neglect. As introduced, the bill would assign duties and authorities to the Department of Agriculture to provide expert assistance to aid law enforcement in assessment and disposition of seized livestock animals. The bill can be broken down into the following substantive elements.

LB 423 inserts a new section (section 3) stating legislative findings recognizing state livestock health interest in incidents of livestock neglect/abuse and assigning authority to the Director of Agriculture to appoint agents of the Director who are veterinarians trained in animal cruelty investigation available to advise local law enforcement regarding condition and disposition of animals and to represent the State Veterinarian with respect to state livestock health interests. The Director would be authorized to make available such other appropriate assistance within Department's authorities and capabilities.

Section 5 of the bill amends section 54-906 pertaining to authorities of law enforcement officers when investigating or observing instances of cruelty or neglect. The bill would expressly authorize the officer to enter an agreement with the

owner/custodian specifying management interventions to be undertaken to avoid custody being taken by the officer. Revisions to 54-906 specify that seized livestock animals shall be subject to disposition as provides in section 6 of the bill. In the event seizure of animals were to occur, the bill would authorize animals to be kept on the premises of the owner/custodian. Finally, the revisions to this section would expressly authorize euthanization of animals experiencing extreme suffering or injured, disabled, or diseased past recovery for useful purpose. Law enforcement would be held to make reasonable accommodation of an owners request that a veterinarian of the owner's choosing be present during examination and assessment of animals, but that attempts to accommodate such request shall not delay necessary euthanization for more than 24 hours.

A new section (section 6 of the bill) is inserted into the Act setting forth procedural steps for judicial determination of disposition of seized livestock animals. Upon seizure of livestock animals, the agency taking custody shall have 7 days to petition for a hearing before the district court, with the hearing scheduled for within 10 days of the petition unless otherwise directed by the court. Notice of the hearing is to be provided to seized animal owners or custodians and lien or security holders of record. Subsection (2) provides Upon a finding of probable cause that abandonment or cruel neglect or mistreatment has occurred, the court may:

- Order immediate forfeiture to the seizing agency and authorize ultimate disposition as prescribed;
- Issue an order setting forth conditions to be met to restore original custody in the owner, or with other person having an interest in the animals. Such order may include management actions to reduce herd to sustainable level including culling actions and securing of feed and veterinary care, or
- Order bond or security posted to secure seizing agency's cost of care for animals.

Directs that the agency shall provide an accounting of use of funds, and provides for subsequent bond hearing application. Any unused proceeds of bond or other security are to be returned to the owner.

Procedures for appeal are prescribed and repayment should the person be found not guilty of associated criminal charges are prescribed.

The bill would make conforming changes to the primary substantive provisions described above by adding defined terms for owner or custodian and Director in 54-902 of the Act. Additionally, the bill would remove inspectors under the Commercial Dog and Cat Operator Inspection Act from the definition of law enforcement officers

Explanation of amendments:

The Committee amendment (AM614) makes the following substantive revisions:

- strikes introduced section 3. The insertion of Director as a defined term in 54-902 is stricken as no longer necessary due to elimination of original section 3.
- provides that attempt at accommodating owner request to have a veterinarian of owner's choosing present for assessment shall not unduly delay (strike 24-hour period) necessary euthanization and provides that euthanization can be foregone if animal is placed in the care of care of a veterinarian.
- inserts that a copy of any custody agreement between the owner/custodian and a law enforcement officer be provided to the owner/custodian.
- Replaces existing subdivision (2)(c) of section 6 with revised subsection (2)(c). The amendment retain authority for a court to order bond or other security, but adds adds direct installment payment of expenses for care of animal, in lieu of bond or other security, as financial responsibility option available to the court. (the payment provisions are modeled after those contained in 29-818) Harmonizing revisions are made throughout the subdivision as necessary to incorporate this revision.
- Revises the provision for repayment of that any proceeds of bond or security, or direct payment for care of seized animals in the event an owner/custodian is found not guilty of any associated criminal charges to repayment of funds remaining after actual expenses incurred for care of animals.
- Removes llamas from the definition of equine and revises the defined term livestock animal to include llamas.
- Inserts new section 1 amending section 29-818 to remove the applicability of that section to equines to eliminate a

conflict with section 6 which applies to disposition of livestock animals defined under section 54-902 of the Act to include equines.

Ken Schilz, Chairperson